



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

INTERNATIONAL UNION, UAW :
:
Complainant :
v. : CASE NO. M-0648
:
TOWN OF PELHAM : DECISION NO. 92-01
:
Respondent :

APPEARANCES

Representing International Union, UAW:

Robert Monahan

Representing Town of Pelham:

Robert P. Leslie, Esq.

Also appearing:

Linda Dowling
Jacquelyn Mierswa
Albert S. Greenhalgh
Donald E. Foss, Sr.
Peter Flynn

BACKGROUND

On or about April 24, 1991, International Union, UAW, filed a petition for certification for the positions of "department heads and residual employees" of the Town of Pelham involving nineteen (19) employees. Those nineteen employees involved the positions of:

Town Clerk/Tax Collector (elected)	Library Assistant I
Fire Chief	Technical Processor-Library
LT., EMT Firefighter	Parks & Recreation Director
EMT Firefighter	Parks & Recreation Secretary
Police Chief	Executive Secretary
Planning Director	Site Coordinator, Sr. Citizens
Incinerator Supervisor	Assessor
Highway Foreman	Cable Coordinator
Children's Librarian	Studio Production Asst.

By filing of May 6, 1991, the Town, through counsel filed an exception to the Petition for Certification and also referred to this Board's Decision No. 86-24, dated March 18, 1986, which created a unit of all full time and permanent part-time employees of the Town Office, Public Works, Fire, Incinerator and Police Department; specifically, laborers, custodians, incinerator workers, clerical/secretarial, bookkeeper, animal control officers and deputy town clerk/tax collector.

Excluded from the unit are employees of the town library, as a separate entity, and the secretary to the Administrative Assistant as a confidential employee.

The matter was scheduled for hearing before and heard by this Board on July 25, 1991.

Taking notice of its decision of March 18, 1986 (Decision No. 86-24), this Board excludes from further consideration in these proceedings the following positions: (1) Town Clerk/Tax Collector (elected and ineligible per RSA 273-A:1, IX), and (2) Library Director, Children's Librarian, Library Assistant I and Technical Processor (all are employees of the Library trustees, not the Town, under RSA 202-A:11).

FINDINGS OF FACT

1. The Town Clerk/Tax Collector is elected and exempt from coverage under RSA 273-A:1, IX.
2. The Fire Chief supervises EMT/Firefighters personnel and accomplishes performance evaluations for subordinate employees. He is appointed by the Selectmen, therefore, exempt from coverage under RSA 273-A:1, IX (b).
3. The Lt. EMT Firefighter and the EMT firefighter are public employees within the meaning of RSA 273-A:1, IX; however, they are already covered by the 1986 decision in Decision No. 86-24. They are excluded from this unit.
4. The position of Police Chief supervises no subordinate positions in the proposed unit. Further testimony established that the Police Chief has participated in negotiations for other bargaining units, implying a confidential relationship to the public employer under RSA 273-A:1 (c). He is appointed by the Selectmen. The position is excluded under RSA 273-A:1 IX (b) and (c).
5. The Planning Director, Incinerator Supervisor and Highway Foreman are employees of the Town for whom no confidential relationship was established relative to collective bargaining functions and who supervise no subordinate positions in the petitioned for unit.
6. The Director of Parks and Recreation reports directly to the Board of Selectmen and supervises one secretary whose position is petitioned for in the proposed unit. Thus, the Director of Parks and Recreation is excluded from coverage under RSA 273-A:1, IX (b) and RSA 273-A:8, II.
7. The secretary at Parks and Recreation is a public employee within the meaning of RSA 273-A:1, IX and has a community of interest with other employees in the petitioned for unit.
8. The Executive Secretary is a public employee within the meaning of RSA 273-A:1, IX. While the Executive Secretary serves as secretary to the Board of Selectmen, there was no showing either in the "Confidential Secretary" job description or in testimony that she has ever been involved in labor negotiations or labor-management discussions other than to have typed material after the negotiations process has been

completed and the information known to the public. Thus, the position shares a community of interest with other positions petitioned for in the proposed unit and is not excluded under RSA 273-A:1, IX (c).

9. There was no evidence that the position of Site Coordinator for Senior Citizens was ever formally created or adopted, that there is a job description for the position, or that it has ever been filled by an incumbent.
10. The position of Assessor, currently vacant and being performed by a sub-contractor, would be, if filled, occupied by a public employee within the meaning of RSA 273-A:1, IX and would share a community of interest with other employees in the petitioned for unit.
11. The Cable Coordinator position is responsible for the operation of the cable television department, operationally but not as to supervisory or personnel functions, is a public employee within the meaning of RSA 273-A:1, IX, and shares a community of interest with other employees in the petitioned for unit.
12. The Studio Production Assistant position is a public employee within the meaning of RSA 273-A:1, IX, and shares a community of interest with other employees in the petitioned for unit.

DECISION AND ORDER

The maximum number of eligible employees pursuant to the foregoing analysis is eight (8), to wit: Planning Director, Incinerator Supervisor, Highway Foreman, Parks & Recreation Secretary, Executive Secretary, Assessor, Cable Coordinator, and Studio Production Assistant. Given that there are not ten (10) eligible employees in the petitioned for unit as required by RSA 273-A:8 I (d), the petition should be and hereby is DISMISSED.

So ordered.

Signed this 10th day of January , 1992.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine, presiding. Members Seymour Osman and E. Vincent Hall present and voting.